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BLUE COATS AND REDS



Life

"What's he been doin'?"

"Overthrowin' the govment."

AMERICAN CIVIL LIBERTIES UNION
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June 1929

The Protectors of Our Rights

NINE-TENTHS of all the attacks on freedom of speech and assembly are made by the local police. Federal and state agents are inactive compared with them.

The police are the steady, year-in-and-year-out censors and dictators. Federal and state agencies act only at times and places of some acute excitement—in a big strike, a “red” scare—or when pushed into action by some super-patriotic or employers’ organization.

But the police are always at hand, ready at a moment’s notice to decide who may meet and speak, and when and where. They reflect the current prejudices and fears of the dominant forces in their own communities—and they act almost with finality. To be sure, the police are sworn to protect citizens’ liberties as well as their property. But as one chief puts it, “We’ll protect property and let the courts take care of liberty”.

The difficulty in opposing this police censorship of speeches and meetings is that it is commonly outside the law—or, rather, that the law is so indefinite that the police can act as they please. They are the judges of what is “disorderly conduct”, “disturbing the peace”, “inciting to riot”, etc., and the courts ordinarily will sustain them, almost certainly as against reds and strikers. On those loose charges hundreds of meetings are broken up and speakers arrested.

The year 1928 saw more meetings prohibited or broken up and more speakers arrested than any year since 1921. This increasing rate of police attacks on civil liberties prompted us to send out a questionnaire to police chiefs to sound out their attitude and practices.

We had done this once before, in 1921, when the returns from almost a hundred cities showed that the police were the most active agents of repression, responding by high-handed methods to what they conceived to be their “patriotic” duty toward radicals. The returns on the 1928 questionnaire reveal that the brass-button censor is still as much on the job. If anything, an even more ignorant and

intemperate police attitude is shown—reflecting possibly the increased intolerance that has marked these years of decline of the forces of protest. The doctrines of the reds, less familiar to police ears than in 1921, shock them more. The power of labor is less.

With a few notable exceptions practically every police official answering our questionnaire shows active hostility to radicals, a good deal of bewilderment as to what they are up to and a strong determination to keep them out of his city if he can do it. Most of them lay stress on the essential “Americanism” of their cities.

In some cities the police know that even reds have rights — and they respect them. The chief of police of Cleveland expresses this attitude, and the actual practice in that city seems to bear him out. He writes:

“It is the policy of the police to respect the right of free speech guaranteed every citizen in the Constitution. All lawful meetings are afforded every protection by the police and are not prohibited.”

A small group accepts the philosophy of the chief at Springfield, Massachusetts:

“The reds or radicals never give me any trouble and I take no stock in the theory that they are dangerous to our country or our institutions.”

In other cities the police censorship goes the limit in requiring hall-owners, quite without authority of law, to submit all programs in advance for police approval. Philadelphia is still among the worst offenders in that respect. In Boston programs are not submitted in advance, but certain doctrines, notably birth control, may not be advocated though they may be opposed. Hall-owners, intimidated by threats of revoking their licenses, will not rent for such meetings.

In the South and other parts of the country where radicals are scarce and strikes few, the police reveal a naive hostility to allowing any such meetings. While their attitude is significant, it does not yet count in the record of actual interferences. By and large, despite

the exceptions, there is a vast amount of police hemming and hawing when the matter of free speech is brought up. In short in most cities today you may say what you please—provided it is not displeasing to the police.

The analysis in this pamphlet of the replies of the police heads, written by McAlister Coleman, is useful in exhibiting the state of mind with which we of the Civil Liberties Union are confronted in practical efforts to get the right to meet and speak. A reading of this pamphlet tells the facts. Those who are moved to act, can help by following the suggestions given on the last page of this pamphlet.

Our Brass-Button Censors

A RADICAL speaker arrives in a small town.

He asks of his sympathizers the best location for street speaking and is taken to the corner or public square where such organizations as the Salvation Army or either of the two old political parties hold their open-air meetings.

He has spoken but a few moments when a policeman arrives and tells him he is under arrest. If the speaker asks for the officer's warrant or the reason for the arrest he is told that all this will be explained at the station-house. If he is sensible he goes along. A night-stick, as the Police Commissioner of New York City has remarked, is a powerful argument.

At the police station he waits around while officials hold whispered conferences behind huge hands. He is then informed that he is charged with causing a crowd to collect, obstructing traffic, loitering, disorderly conduct or disturbing the peace.

Not until the prisoner, or his lawyer (if he is lucky enough to get one) brings up the subject, is there any mention of the rights of free speech and assemblage. It should be presumed that the police, like all other "true Americans",—The American Legion, The Daughters of the American Revolution, The Ku Klux Klan, The National Defense Society, etc.,—are ardent supporters of the Constitution and its First Amendment. They all say they are for free speech and assemblage,—but within proper limits. They do not believe, as one chief of police puts it, that "any of them damned reds can come into this town shooting off his ugly face against our American institutions".

So to squelch the "damned reds", without seeming to violate that American institution, the Bill of Rights, it is necessary to devise means of throttling radical speakers by police permits and traffic regulations. Not only do the police generally control street meetings, but in many cities they have extended this power to radical

meetings in private halls. Furthermore they usually supervise these meetings after permission is granted to hold them. The 1929 censor and guardian of public morals is a blue coat, brass buttons and a night-stick.

There are nevertheless numbers of folks old fashioned enough to object to this extension of police power to the censorship of ideas. They agree with the dry comment of the late Mayor Gaynor of New York that:

“A policeman is only a citizen dressed in blue clothes and brass buttons, with no right or power to arrest without a warrant which all his fellow-citizens do not possess.”

And they echo Mayor Gaynor again when he was describing conditions in New York, which are just as true today:

“. . . The rights and liberties of the people have so long been trampled upon by the ignorant persons who have been put in rulership over the police, that the citizens seem to have forgotten them. So far has this gone, that the police may in the City of New York, without a warrant, raid, arrest and lock up overnight several hundred persons found in a public hall or room, against whom there is no pretense of any criminal charge whatsoever, or drive the delegates to a political convention out of the convention hall, without exciting any public protest or even comment.”

To ascertain the exact state of the police mind toward street meetings of radicals, the arrest of speakers and breaking up of meetings and interference with strikers about 200 questionnaires were mailed to the heads of the police departments in principal cities throughout the country. Forty-five answers were received from the cities listed on page 8.

Here is what the Union asked them and the summary of the replies (many omitted answers to some questions):

Question

Other replies

Question	Yes	No	Other replies
1. Are permits required for street meetings in your city?	31	11	
2. Are permits required for meetings held in private halls?	8	36	
3. How often were they refused during 1927?	—	—	Never 21 When "unlawful" 1
4. Are meetings under radical auspices held freely in your city?	10	27	
5. Do you keep track of these meetings?	28	7	Only on complaint 7
6. Are radical meetings given police protection?	13	9	On request 8
7. Are radical meetings kept under police surveillance?	27	7	When necessary 3
8. Is any notice to the police required?	15	20	
9. Are stenographic notes taken by the police at these meetings?	18	18	
10. Are the police instructed to interfere if they believe that dangerous speeches are being made?	26	11	By arresting speakers. 18 By closing meetings... 24
11. Are the police instructed not to interfere unless some act in violation of law is committed?	31	6	
12. Are the police instructed to protect radical meetings against interference by their opponents?	16	11	When requested 2
13. Do you believe that Reds should be allowed to meet and speak freely?	3	25	On conditions 11
14. Has the number of radical meetings increased during the last year?	6	6	
15. Has the number of protests against Red meetings diminished during the last year?	21	—	
16. Are any parks or streets set aside for unrestricted meeting places?	9	33	
17. Have you had any trouble with Klan or anti-Klan parades and meetings during the last year?	—	45	

Street Meetings

"Have You Got a Permit?"

The answers to the question in regard to the necessity of a permit for street-speakers show the common practice of requiring permission from some authority.

There is no uniformity, the answers reveal, in the manner of granting these permits. In some places it is the mayor who grants the permits, in others the chief of police, others the director of public safety, still others the head of the department of licenses.

Cities Without Permit System

In Buffalo you may speak without a permit, but you may only speak in the English language. In New York City, according to Grover Whalen, Police Commissioner, "It is of course the policy of the Police Department to permit street meetings at any time, providing the conduct of the meeting does not conflict with any city ordinance or statutory provision." (The volume of New York City ordinances contains about five hundred pages.) On the whole, however, there is very little interference with meetings in New York. Other cities not requiring permits are Knoxville, Tennessee; Berkeley, California; Providence, Rhode Island; Boston (where the record does not bear out the chief in this assertion), and Springfield Massachusetts; Decatur, Illinois; Reading, Pennsylvania; Baltimore, Maryland; Jackson, Michigan; and Kenosha, Wisconsin.

In three cities—Providence, Minneapolis and Buffalo—it is customary for verbal notice to be given the police in advance of the meeting.

Cities With Permit System

Twenty-seven of the chiefs replying to the questionnaire report control over street speaking by a system of permits. These cities are Salt Lake City, Philadelphia, Schenectady, Dallas, Bridgeport, St. Louis, Pittsburgh, Akron, Little Rock, Macon, Los Angeles,

Dayton, Scranton, Paterson, Cambridge, Holyoke, Trenton, Elizabeth, Worcester, Atlanta, Albany, Rochester, Lancaster, Lakewood, Jacksonville, Long Beach, and Oakland.

In Pittsburgh, in addition to requiring a permit, the police ban all street-speaking except in the English language.

Louisville, Kentucky, has hitherto been largely immune from the menace of heterodoxy. Its Chief of Police writes:

"I respectfully beg to advise that permits for street meetings in this city are either issued or denied at the direction of this office. Due to the small number of foreign subjects residing here, we have never been menaced by dangerous radical meetings."

Nashville, Tennessee has settled the entire vexed question to the satisfaction of such dissident minority as may still survive in that city. Says the Chief: "We do not allow street meetings."

Pasadena, California, and Fall River, Massachusetts, handle the matter likewise.

It is New Orleans, however, which furnishes the finest example of a frank police mind in discriminating against radical meetings. Here speaks the chief of that free city:

"No meetings of Radicalism allowed in this city. No permits are issued to any such group of people. If any such meeting are held they do so on the quiet. The reds have no sway in New Orleans. No permits are issued for a private hall meeting of this kind because it is not allowed. No special streets are set aside for private meeting nor are our parks used for any such demonstrations.

"If there is such a meeting found in progress by our officers or if same is reported to this Department through some other source the place where the supposed meeting is to be held is raided and all participants are placed under arrest.

"Regardless of the meeting or affairs whenever the public is subjected to being placed in a furor of frenzy immediate action is taken by arresting those responsible. This city is against radi-

calism. Public meetings such as Civic Leagues which is for the progress of various communities in the city, and other meeting not pertaining to anything radical is allowed without permits. No meeting of any kind are allowed to be held in private halls or other places where the good of the Public is threatened."

From Long Beach, California comes the following sanity,—for a police chief.

"I may add that I believe, should a speaker of known radical tendencies make the proper application for a permit to hold forth his views, he would be granted the right of free speech, always assuming his remarks would be within the bounds of decency and no resort were made to villification or other expedients of the ignorant agitator." He adds, "It is an axiom among many police officers that the best way to handle the radical speaker is to let him get his line of talk off his chest; and I believe that oftentimes the wholesome heckling which he has to endure from his better informed audience does more to cure him of his tendencies than to endeavor to repress him and help to convince him he is a martyr."

On the whole, the attitude of the police toward radical street meetings runs from contemptuous indifference to flat refusal to allow such meetings. Only 11 cities among the 45 permit street meetings freely without permits.

Meetings In Private Halls

In more than a dozen cities whose police heads answered our questions, it is necessary to obtain permits for meetings in a private hall. This amazing new development of police authority, quite outside the law, is applied commonly only to "radical" meetings and to working-class halls. The requirement of getting police approval in advance is common in a number of other cities.

In Boston no permit system is in force but hall owners, dependent upon the City Hall for their licenses to do business, are threatened by the Mayor when "unacceptable" doctrines are to be expounded in their auditoriums. The proponents of birth control

may not speak in Boston though the opponents may rent any hall. All attempts by free speech advocates to break down the mayor's arbitrary censorship have been unsuccessful.

In Fall River, Massachusetts, the police and the owners of halls work hand in hand. Writes the Chief of the Fall River police:

"Owners or lessees of halls notify this office when they are suspicious of any meeting to be held, the police investigate, and if they find it is to be a Red or radical meeting, it is not allowed to be held."

An attempt to curb the lawlessness of the Fall River police was made last year when the textile strikers, backed by the American Civil Liberties Union, brought an injunction suit to restrain the police from trespassing on "Liberty Lot", a vacant lot used by the strikers for their meetings. The injunction was refused, but the judge ruled that the police were liable to civil action for damages and the decision put an end to the police raids on the meetings.

Similar action was taken against the Mayor of Lynn who threatened hall owners that their licenses would be revoked and lot owners that their taxes would be raised if they rented to the striking shoe workers union. Because he disapproved the views of the speakers he called out police reserves to stop one meeting, locked the doors of the rented hall and threw a cordon of police around the building. When called into court to answer injunction proceedings, the mayor reversed himself and told the judge he had no objections to the union meetings.

Permits are required for meetings in private halls "in some instances", writes the Philadelphia Superintendent of Police. As a matter of fact ever since the war the Philadelphia police have had an "understanding" with all hall-owners by which all programs of public meetings are submitted in advance for a police O.K. Repeated efforts to get a court ruling on Superintendent Mills' control over such meetings were unavailing until 1928 when the police broke up two meetings of the Philadelphia Council of the Unemployed. A test case of the arrests brought by the American Civil Liberties

Union resulted in a ruling in the Court of Common Pleas sustaining the police censorship over meetings. The Superior Court affirmed the convictions for disorderly conduct and refused to pass on the lawfulness of the police censorship.

Discrimination Against Radicals

We asked what organizations or individuals were refused permits to hold meetings in private halls or on streets. In spite of the fact that many of the police had replied that no permits whatever would be issued to radical speakers, most of them said that no organization had been refused permits!

While the word "radical", which we purposely did not define, was generally taken by officialdom to mean Communists and Anarchists, the Mayor of Reading, Pa., who was a notable exception in stating that radical meetings were held freely in his town, made this note: "This is a Socialist administration. The term 'radical' as per questionnaire has been applied to the Socialists."

Only "ultra-radicals" are refused in Trenton, N. J., according to the Chief of Police. In Paterson, where one of the most significant assemblage cases of recent years arose (Roger N. Baldwin and striking silk workers) and was carried successfully to the state's highest court, "none" were refused during 1927.

Newark police prevented the holding of a mass meeting for miners' relief in a private hall on the ground that at the last meeting "speeches were made attacking the government".

The Chief of Police of Buffalo says that permits were "seldom refused" in his city in the year in question. The chief of Lakewood, Ohio, says that the Ku Klux Klan was turned down.

A unique case of police refusal to allow an individual to speak comes from Lancaster, Pa., where the chief says that a permit was refused for a lecture by a "converted non" (sic!).

The answer to the question "Are meetings under radical auspices held freely in your city?" was a thunderous negative. The majority of the police confused "freely" with "frequently".

"We have never had any such meetings here" is the report from Knoxville, Tenn. And many other police chiefs echo this statement with great satisfaction. The Chief at Dallas, Texas, says "Don't remember of any such meeting held here". There is a hallelujah note from Atlanta, Georgia, the headquarters of the K. K. K., whose Chief writes: "We have no radicals in this city, thank the Lord!"

Among Those Present

The questions dealing with police procedure after the permits are issued and the meetings are under way indicate that in many of the cities, the police "cover" radical meetings with instructions to break them up if, in the opinion of the officials present, what is said constitutes "a menace to public safety, according to existing conditions", as the Chief of Police of Pittsburgh puts it.

In some cases stenographic notes are taken by the police. They are always taken in Providence, R. I., "if there is reason to expect speeches that would not be tolerated", says the chief. Notes are taken by the police of Akron, "if our attention is called that it is going to be seditious". On the whole the great majority did not answer this question or simply denied that notes are taken.

As to closing down meetings and arresting speakers many of the answers can be summed up, "We close down meetings *if the law is being violated*". This qualification accompanies practically every affirmative answer to the question of police interference.

In Nashville, Tenn., for example, the police are instructed to interfere, "if any illegal effect is advanced". Similarly mystic language is used by several other police chiefs.

Help From the Outside

Of the few answers made to the question as to complaints lodged against radical meetings by such organizations as the American Legion and the Chambers of Commerce, most of the replies were that the police investigated such complaints.

The Chief of Police of Lakewood, Ohio, is frank enough to say "we co-operate with the Legion and the Chamber of Commerce". "We listen to their protests and co-operate", says the Minneapolis Chief. In Memphis the police also "co-operate". The police in Bridgeport say they "handle the matter with fairness". On the other hand, the Chief of Police of Schenectady says bluntly, "No organization or body dictates my policy".

No Place In the Sun

"Do you believe yourself that Reds should be allowed to meet and speak freely?" Twenty-two police chiefs said "No." "Emphatically no", says Salt Lake City and Elizabeth, N. J. echoes, "No, by no means".

Only three gave an unqualified yes—Reading, Pa. and Berkeley and Oakland, Cal.

Most of the other answers said, "Yes, provided—" That is, provided there is no violation of the law, incitement to riot, etc. "Constitutional right, but depending on tenor of talk", writes the Buffalo Commissioner. "It all depends on what you infer as 'speak freely'", says Schenectady and this seems to be the consensus of those few who were inclined to let reds speak at all.

The Chief of Police of Albany, where a permit is not required for street or hall meetings says gratefully, "I have never had any experience with the speech of Reds". Likewise, Decatur, Ill., has "never been bothered with a Red meeting", according to its chief.

Several chimed in with Dallas to object, "Personal queries have no place in an official questionnaire".

On the Picket Line

Innumerable qualifications again appear in the answer to the questions as to police action in time of strikes.

"If's", "unlesses" and "buts" go hand in hand with the denials that the police interfere with strikers.

While the great majority say that there is no interference they quote ordinances about "loitering" as in Paterson, N. J., "interference with pedestrians", and have much to say about "overt acts" and as the Chief of Scranton, Pa., says, "unorderly manner".

Only two police chiefs, those of Omaha, Nebraska and Macon, Georgia, say frankly "yes" in answer to "In time of strikes do the police interfere with strikers' meetings or with picketing?" The Chief of Salt Lake City says that a state law prohibits picketing and there is an ordinance against picketing in the city of Oakland, Cal., according to its chief.

Records of the American Civil Liberties Union show that in many of the cities where it is denied that there is any "interference", strikers' meetings have been broken up and pickets arrested. The police who have answered this question have made an elastic interpretation of the word "interference".

The Inescapable Conclusion

As the returns from the police chiefs clearly show, and as the records of the Civil Liberties Union bear out, the average police department in the United States has no notion of civil rights of citizens and little interest in finding out what they are. Their policies are dictated by prejudice or pressure of interested parties. Preserving order and protecting property are far greater considerations with them than protecting citizens' liberties. They wouldn't know what you were talking about if you raised that issue.

The replies also indicate that the police discriminate according to their prejudices. There are only a few cities in which minorities are strong enough to have won some recognition of their rights. Practices vary widely, but on the whole those whose "free speech" runs counter to popular prejudice get pretty short shrift.

If the civil rights of citizens were respected, this would be the police policy in American cities:

1st: Speaking on the public streets would be entirely free, unrestricted by permits, with a requirement merely of notice to the

police, so that the police might designate another location if it appeared that traffic would be interfered with. There should be no more interference with radical and political street meetings than with the Salvation Army, crowds before a baseball score-board or around a street vendor. The police do not commonly raise traffic issues with them.

2nd: There should be no control whatever over meetings in private halls. The time for the police to interfere is when actual disorder takes place.

3rd: No meetings should be broken up by the police for what some policeman may think is a violation of law by mere utterances. He should take down what he regards as objectionable language and go to the prosecuting officer with it. Policemen cannot be judges of whether language violates the law.

4th: In case of a meeting where the opponents of those who are holding the meeting threaten to break it up or create disorder, the police should give the meeting protection.

5th: In every city places should be set aside in the public parks or on the streets to be used as public forums. School houses also should be open to all civic organizations for the same purpose under regulations applied without discrimination.

6th: The rules concerning picketing in time of strikes should be clear so that pickets know their rights. The only interference with picketing should be in the interest of traffic. Actual violence or disorder, of course, are always proceeded against by the police.

7th: Parades of radicals and other minorities should be given precisely the same rights and protection as parades by other citizens.

For those who want to act, we suggest that this statement of desirable police practices should be taken up with the chief of police or the commissioner in every community, with a view to changing the present chaotic and mostly lawless methods.

Present police methods can be fought by arousing public interest, by carrying issues into court, and by negotiations with the police. The Civil Liberties Union follows all these tactics according to the local situation. Sometimes test meetings, in defiance of police orders, are necessary to raise the issue. The police then either are taken into court or abandon their position. Rarely, injunctions can be obtained prohibiting police interference. Now and then a campaign of protest in the press and threats of legal action will change the police attitude. Sometimes the higher-ups will listen to reason, and order the police not to interfere—recognizing that less trouble arises from letting meetings go on than breaking them up.

When the police do lawlessly interfere, we have often moved to prosecute for unlawful arrests or for assault, or to sue for damages. Both forms of action, while usually without result in the particular cases, cause police to change their tactics for the better.

But more important for enduring results, is effort to achieve the condition that now exists in some metropolitan cities where street meetings of any and all sorts may be held almost any time or place without permit, merely by notifying the police; where no public control exists over meetings in halls; and where certain public squares are virtually recognized as forums for public meetings. Such common-sense lack of regulation is the exception in American cities. It should be made the rule—and it can be with sufficient pressure from interested citizens and organizations.

The Cities Covered

Replies were received from these cities. Included also are a few larger cities from which we got no replies, but where conditions are known to us.

ARKANSAS

Little Rock

CALIFORNIA

Berkeley

Los Angeles

Long Beach

Oakland

Pasadena

CONNECTICUT

Bridgeport

FLORIDA

Jacksonville

GEORGIA

Macon

Atlanta

ILLINOIS

Decatur

LOUISIANA

New Orleans

MASSACHUSETTS

Boston

Cambridge

Fall River

Holyoke

NEW JERSEY

Elizabeth

Paterson

Trenton

NEBRASKA

Omaha

NEW YORK

Albany

Buffalo

New York

Schenectady

Rochester

OHIO

Cleveland

Springfield

Worcester

MICHIGAN

Jackson

MARYLAND

Baltimore

MINNESOTA

Minneapolis

MISSOURI

St. Louis

Akron

Dayton

Lakewood

PENNSYLVANIA

Philadelphia

Pittsburgh

Scranton

Lancaster

Reading

RHODE ISLAND

Providence

TENNESSEE

Nashville

Knoxville

TEXAS

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